

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Donald P. and Susan P. Harrison)
 Ward 080, Block 008, Parcel 00095) Shelby County
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$48,600	\$153,400	\$202,000	\$50,500

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on August 21, 2007 in Memphis, Tennessee. In attendance at the hearing were Susan Harrison, the appellant, and Shelby County Property Assessor's representative Elizabeth Triplett.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 1215 Millbridge in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$185,000. In support of this position, the taxpayer argued that the assessor of property's appraisal erroneously treats approximately 270 square feet of unfinished attic space as finished living area. In addition, the taxpayer introduced comparables she maintained support a value of approximately \$185,000. Finally, the taxpayer asserted that the current appraisal of subject property does not achieve equalization given the assessor's appraisal of other homes in the neighborhood.

The assessor contended that subject property should be valued at \$264,700. In support of this position, the sales comparison approach was introduced into evidence. In addition, Ms. Triplett introduced a report from Chandler Reports indicating that independent fee appraisers had appraised subject property in 1992 and 1996 as having 2,763 square feet of living area.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$186,900.

The administrative judge finds that the initial area of disagreement between the parties concerns the amount of finished square footage upstairs. The administrative judge finds that Ms. Harrison documented her estimate of 512 square feet through testimony and photographs. The administrative judge finds that Chandler Reports has less probative value in this particular case because it is simply unclear how the appraisers arrived at their 2,763 square foot estimates. The report simply states "February 1996 by independent appraiser" and "September 1992 by independent appraiser". Moreover, it is unclear whether the 1996 appraisal utilized the square footage estimate found in the 1992 appraisal or independently arrived at the same result.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.¹ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

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With respect to the issue of market value, the administrative judge finds that the taxpayer's proof has greatest probative value and supports a value indication of \$75 per square foot. Respectfully, the administrative judge finds that Ms. Triplett's concluded value of \$264,700 appears excessive. Indeed, with the exception of the sale of comparable #2 for \$250,000, the next highest sale in the record was for only \$225,900 (assessor comparable #3). On the other hand, Ms. Harrison introduced several sales for significantly less both in absolute dollars and on a per square foot basis. The administrative judge finds

¹ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

that when all the sales are viewed collectively, it must be concluded that Ms. Triplett's assumed adjustments are not supported by market data.

Based upon the foregoing, the administrative judge finds that subject property should be appraised assuming 2,492 square feet of finished living area at a value of \$75.00 per square foot. This results in a value of \$186,900.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$48,600	\$138,300	\$186,900	\$46,725

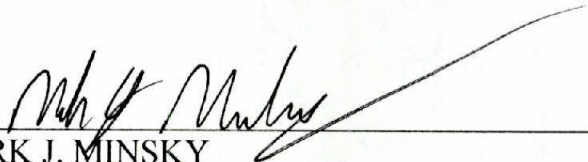
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Donald P. & Susan P. Harrison
Tameaka Stanton-Riley, Appeals Manager